

**3 PAGES**

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Proposed Attorneys for Debtor in Possession

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

In re:

RUSSELL WAYNE LESTER, an  
individual, dba Dixon Ridge Farms,  
  
Debtor in Possession.

CASE NO.: 20-24123-E-11

Chapter 11

DCN: FWP-6

Date: September 1, 2020  
Time: 1:30 p.m.  
Courtroom: 33 – Judge Ronald H. Sargis  
501 I Street, 6<sup>th</sup> Floor  
Sacramento, CA

**DEBTOR IN POSSESSION'S EMERGENCY MOTION FOR TURNOVER OF FUNDS  
HELD BY STATE COURT RECIVER**

Pursuant to 11 U.S.C. §§ 542 and 543, Russell Wayne Lester, an individual, doing business as Dixon Ridge Farms, and the debtor in possession ("Debtor in Possession") in the above referenced Chapter 11 case (the "Chapter 11 Case") hereby files this Emergency Motion For Turnover of Funds (the "Motion") Held by State Court Receiver (defined below), and respectfully represents:

**JURISDICTION**

This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and Local Rule 9014-1(f)(4). This is a core proceeding pursuant to 11. U.S.C. § 543(b)

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1 and 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and  
2 1409.

### 3 **REQUEST FOR RELIEF**

4 1. By this Motion, the Debtor in Possession respectfully requests the Court enter an  
5 order:

6 a. Compelling the turnover of all the Debtor in Possession's funds currently  
7 held by the State Court Receiver less a reserve requested by State Court Receiver in the amount  
8 of \$58,655.89 (the "Receiver's Reserve");

9 b. Compelling any remaining balance in the Receiver's Reserve to be turned  
10 over to bankruptcy estate once the Receiver's accounting and administrative claim applications  
11 are resolved; and

12 c. Such other relief as is just and appropriate in the circumstances of this  
13 Motion.

### 14 **FACTUAL BACKGROUND**

15 2. The facts and background respecting the present Chapter 11 Case is set forth in  
16 more detail in the Omnibus Declaration of Russell Wayne Lester, which is incorporated herein  
17 by this reference.

18 3. Prior to the Chapter 11 filing, First Northern Bank of Dixon filed an action in the  
19 Solano County Superior Court, Case No. FCS054698, which sought appointment of a receiver  
20 over certain assets of the Debtor in Possession. Donald G. Howell was appointed the receiver  
21 (the "State Court Receiver").

22 4. Shortly after the present Chapter 11 case filing, the Debtor in Possession's  
23 counsel reached out to counsel for the State Court Receiver and requested all Debtor in  
24 Possession's funds held by the State Court Receiver's accounts be turned over immediately.

25 5. The State Court Receiver's counsel requested that an order be entered, which  
26 allowed the State Court Receiver to reserve a reasonable amount for his and his counsel's fees  
27 and costs.

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1           6.       The Debtor in Possession agreed and added the present Motion to the list of First  
2 Day Motions.

3           7.       After the first call, the State Court Receiver's counsel sent Debtor in Possession's  
4 counsel an email detailing that the State Court Receiver was holding approximately \$155,000 in  
5 the receivership checking and savings accounts, and requested that he be allowed to reserve the  
6 State Court Receiver's and his counsel's fees and costs in the receivership through August 27,  
7 2020 in the amount of \$76,344.11, and \$20,000 to cover the State Court Receiver's and his  
8 counsel's anticipated fees and costs to be incurred post-petition complying with the State Court  
9 Receiver's turnover requirements and filing the necessary pleadings in the bankruptcy court for  
10 approval of the State Court Receiver's Account and Fees and Expenses. *See Declaration of*  
11 *Thomas A. Willoughby*, filed concurrently herewith.

12           8.       The Debtor in Possession has agreed to the proposed Receiver's Reserve, but  
13 reserves all rights to comment on, oppose, or support any of the State Court Receiver's  
14 applications to approve its accounting fees or expenses in the receivership action or in this  
15 Chapter 11 Case.

16           WHEREFORE, the Debtor in Possession respectfully requests that the Court grant the  
17 relief requested herein.

18       Dated: August 31, 2020

FELDERSTEIN FITZGERALD  
WILLOUGHBY PASCUZZI & RIOS LLP

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20  
21       By /s/ Thomas A. Willoughby  
22               Thomas A. Willoughby  
23               Proposed Attorneys for Debtor in  
24               Possession  
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